

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11CV635-RJC

CHARLES M. CASSELL, III,)
)
 Plaintiff,)
)
 v.)
)
 LEWIS SMITH, Superintendent Albemarle)
 Correctional Institution; DR. HASSAN,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER comes before the Court on initial review of Plaintiff's Complaint under 42 U.S.C. § 1983 filed December 15, 2011 (Doc. No. 1). A review of Plaintiff's Complaint reveals that Plaintiff is complaining about various conditions of his confinement as well as lack of adequate medical care at Albemarle Correctional Institution. (*Id.*). Upon consideration by the Court, for the reasons set forth herein, the Plaintiff's Complaint will be transferred to the federal District Court for the Middle District of North Carolina.¹

Venue in a civil action based upon a federal question, i.e. alleged violations of an inmate's civil rights is proper in "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought." 28 U.S.C. § 1391(b).

Here, Plaintiff complains of events that occurred exclusively at Albemarle Correctional

¹ The Court notes that Plaintiff has been found to be a "three striker" pursuant to 28 U.S.C. § 1915(g). See Cassell v. Dawkins et al., 5:10cv191 (W.D.N.C.)

Institution. The Court takes judicial notice that Albemarle Correctional Institution is located in Badin, North Carolina which is situated within the Middle District of North Carolina. Consequently, because the face of the instant Complaint does not support a finding that the events giving rise to the claim occurred in the Western District of North Carolina, but instead took place in the Middle District, this Court will not entertain the merits of Plaintiff's claim and will transfer this Complaint to the Middle District of North Carolina.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Plaintiff's Complaint, including Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. No. 1-3), is **TRANSFERRED** to the federal District Court for the Middle District of North Carolina.

Signed: January 5, 2012

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

